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Report of the Economic and Social Council

United Nations Population Award, 2012

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Executive Director of the United Nations Population Fund on the United Nations Population Award, established by the Assembly in resolution 36/201. The report covers the year 2012 and was prepared in accordance with Economic and Social Council decision 1982/112.

* A/67/150.

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Report of the Executive Director of the United Nations Population Fund on the United Nations Population Award, 2012

I. Introduction

1. On 17 December 1981, the General Assembly adopted resolution 36/201 entitled "Establishment of the United Nations Population Award". The Award is presented annually to an individual or individuals, to an institution or institutions, or to any combination thereof, for the most outstanding contribution to increasing awareness of population questions or to finding solutions to them.

2. The Committee for the United Nations Population Award selects the laureate for the Award. The Committee is composed of representatives of 10 States Members of the United Nations, elected by the Economic and Social Council for a period of three years.

3. In decision 41/445, the General Assembly amended article 2, paragraph 1, of the regulations governing the United Nations Population Award, so that an individual and an institution could share the award.

4. In decision 1987/129, the Economic and Social Council amended the rules of procedure of the Committee for the Population Award accordingly.

5. The current elected members of the Committee are Bangladesh, the Czech Republic, Egypt, Ghana, Guatemala, Jamaica, Malaysia, Nicaragua, Norway and the United Republic of Tanzania.

6. During its first regular meeting, on 15 February 2012, the Committee re-elected Ambassador Maged A. Abdelaziz (Egypt) as Chair of the Committee for 2012. The Committee subsequently agreed that Ambassador Mootaz Ahmadein Khalil, who replaced Ambassador Abdelaziz as the Permanent Representative of Egypt to the United Nations, should complete the remainder of the term.

II. United Nations Population Award, 2012

7. The Committee received 16 nominations from qualified nominators for the 2012 Award. Of these, nine were for the individual category and seven were for the institutional category. On 16 March 2012, in accordance with the mandate given to it by the General Assembly, and after a thorough review of the nominations, the Committee selected Ms. Adrienne Germain of the United States of America in the individual category, and the Federation of Reproductive Health Associations, Malaysia, in the institutional category.

8. The Committee selected Ms. Germain in recognition of her pioneering contribution in linking population policies with the status of women, as far back as 1975, as well as for her contribution to reshaping the global agenda on women's health and human rights. The Committee cited her role in elaborating and championing the concept of reproductive health and her extensive writing in the areas of family planning and reproductive health. In addition, the Committee considered Ms. Germain's contribution to global efforts to improve the status and

health of women and girls, and her role as an advocate in building worldwide networks to promote sexual and reproductive health and reproductive rights.

9. Ms. Germain is a social sciences academician and programme manager from the United States of America. She obtained a Bachelor of Arts degree in sociology, with honours, from Wellesley College in 1969, and a Master of Arts degree in sociology, with a minor in demography, from the University of California, Berkeley, in 1971. She later received two distinguished fellowships from the Ford Foundation and from the Population Council. She began her career as a staff associate in family planning evaluation at the Population Council (1970-1972), then worked in the Population Office of the Ford Foundation (1972-1976) and in the Office of the Vice-President, as project specialist (1976-1981). From 1981 to 1985, Ms. Germain was the representative of the Ford Foundation in Bangladesh. From 1986, she worked for the International Women's Health Coalition as its Vice-President, and, from 1998, as its President, until her retirement in 2011.

10. Ms. Germain is a prolific writer in the area of family planning and reproductive health. She is recognized as one of the pioneers that linked fertility and population policies with the status of women. As a programme manager, Ms. Germain convened and participated in numerous meetings that linked women's health and population issues. She has served as an adviser to numerous international population programmes, including those of the United Nations Development Programme, the United Nations Population Fund, the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the Government of the United States of America. She was one of the experts invited by the World Health Organization to assist it in preparing its reproductive health strategy. She has also participated in the Millennium Project Task Force on Maternal and Child Health; the UNAIDS Global Task Force on Women, Girls, Gender Equality and HIV; and the Gender Knowledge Network of the Global Commission on Social Determinants of Health.

11. Ms. Germain played a key role as a member of the delegation of the United States of America to the International Conference on Population and Development held in Cairo in 1994 and in its preparatory work, as well as in the Fourth World Conference on Women, held in 1995 in Beijing. Her advocacy activities, and particularly her ability as a negotiator, have made her a leading force in elucidating the nature of population issues, in finding their determinants, and in designing programmes and taking action leading to their solutions. Ms. Germain is also recognized as a prominent scholar who has successfully mobilized women in her own country; on the international level, she has built a platform based on the defence of sexual and reproductive health and rights.

12. The Committee for the United Nations Population Award selected the Federation of Reproductive Health Associations, Malaysia (FRHAM) for its achievements in advocating reproductive health, in advancing the health and status of women and children in Malaysia by promoting family planning, and for its success in serving one of every four new users of family planning services and one sixth of all users of family planning services in Malaysia. The Committee cited the role of FRHAM in bringing visibility to family planning in Malaysia and elsewhere in Asia by promoting the motto "not too early, not too late, and not too close", as well as for its commitment to improving the lives of disadvantaged communities, including refugees, sex workers, and transsexual and marginalized youth at juvenile homes and orphanages.

13. FRHAM is a non-governmental organization composed of 13 State member associations. It has its legal base in Subang Jaya, Malaysia. It was originally established in 1958 to educate Malaysians about family planning and responsible parenthood, and to promote and support effective family planning and sexual and reproductive health services. In 2009, it changed its name, the Federation of Family Planning Associations, to its current name, the Federation of Reproductive Health Associations, Malaysia, in order to reflect the new emphasis on reproductive health. FRHAM is the leading non-governmental organization in the area of population, family planning, and sexual and reproductive health in Malaysia. It works closely with governmental organizations at national and local levels.

14. FRHAM operates on the basis of the Strategic Plan towards Vision 2020, adopted in 2003 by the Federation of Family Planning Associations of Malaysia. FRHAM works in close collaboration with the International Planned Parenthood Federation. The Strategic Plan is aligned with the decennial Strategic Framework adopted by the International Planned Parenthood Federation for 2005 to 2015, which focuses on the five As: Access, Adolescents, Advocacy, AIDS/HIV and Abortion. FHRAM gained visibility in Malaysia and other Asian countries by promoting its motto "not too early, not too late, and not too close", to emphasize the value of family planning in contributing to the health of mothers and children. FRHAM produces a number of publications for the general public on reproductive health; its other publications include a series of training manuals for health providers. These publications are available in English and Malay; many of them are also available in Chinese and Tamil.

15. In addition to the Ministry of Health and the National Population and Family Development Board, FRHAM is one of the largest organizations devoted to reproductive health in Malaysia. Through the years, FRHAM has expanded its activities to cover disadvantaged communities, including refugees, sex workers, and transsexual and marginalized youths at juvenile homes and orphanages. Because of its achievements, the organization has received numerous awards and recognition from governmental organizations. In 1999, the United Nations recognized its pioneering work in reproductive health.

III. Financial matters

16. As of 31 December 2011, the Trust Fund of the United Nations Population Award had a total fund balance of $1,774,492.60. Interest income in 2011 was $21,311.76. Expenditures in 2012, including prizes awarded to the two laureates, totalled $85,049.11.

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Sixty-seventh session
Item 70 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights of migrants

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report prepared by the Special Rapporteur on the human rights of migrants, François Crépeau, in accordance with General Assembly resolution 66/172.

* A/67/150.

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Report of the Special Rapporteur on the human rights of migrants

Summary

The present report, submitted in accordance with General Assembly resolution 66/172, constitutes the first report to the Assembly of the Special Rapporteur on the human rights of migrants. The report first introduces the activities of the Special Rapporteur throughout the reporting period.

The thematic section of the report is dedicated to the impacts of climate change and some of its consequences for migration. The Special Rapporteur first analyses some of the technical aspects of climate-change-induced migration, including questions of definitions, identifying the places and persons most affected and considering where climate-change-induced migrants are moving towards. It then considers how international law approaches the matter of climate-induced migration, including some deficiencies in the currently existing categories.

Finally, the Special Rapporteur takes note of the political engagement that will be required on the issue by a range of actors, including from governments, the international community and civil society. He provides some conclusions and recommendations to help guide States in developing appropriate responses to this complex issue.

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I. Introduction

1. The present report is the first submitted to the General Assembly by the current Special Rapporteur on the human rights of migrants. The Special Rapporteur was invited to present his report to the General Assembly at its sixty-seventh session in resolution 66/172.

2. The activities of the Special Rapporteur are carried out in accordance with Commission on Human Rights resolution 1999/44, by which the mandate was first established. Since then, the mandate of the Special Rapporteur has been extended by Commission on Human Rights resolutions 2002/62 and 2005/47 and Human Rights Council resolutions 8/10 and 17/12, each time for a period of three years. At its seventeenth session, the Human Rights Council appointed François Crépeau (Canada) as the new Special Rapporteur on the human rights of migrants, and he assumed his functions on 1 August 2011.

II. Activities

3. During the period under review, the Special Rapporteur participated in a number of conferences and forums directly related to his mandate.

4. From 8 to 10 November 2011, in Djibouti, the Special Rapporteur participated in an Expert Meeting on Refugees and Asylum-Seekers in Distress at Sea, organized by the Office of the United Nations High Commissioner for Refugees (UNHCR).

5. From 29 November to 2 December 2011, he attended the Global Forum on Migration and Development Civil Society Days and relevant side events in Geneva. He also attended the Tenth Coordination Meeting on International Migration and Development in New York in February 2012.

6. On 22 and 23 March 2012, he participated in the Expert Consultation of Human Rights at International Borders, organized in Geneva by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

7. The Special Rapporteur also participated in the twenty-first session of the United Nations Office on Drugs and Crime Commission on Crime Prevention and Criminal Justice in Vienna from 23 to 27 April 2012 during the thematic discussion on violence against migrants, migrant workers and their families.

8. The Special Rapporteur has also been collaborating with the United Nations Children's Fund (UNICEF) in the preparation of a joint document which will be presented at the Day of General Discussion of the Committee on the Rights of the Child on the rights of all children in the context of international migration, and he will participate in the Day of General Discussion on 28 September 2012.

9. The Special Rapporteur has also been following the preparations for the 2012 Global Forum on Migration and Development, which he will attend in Mauritius in November 2012. He also welcomes the next High-level Dialogue on International Migration and Development, which will be the second such dialogue to be convened by the General Assembly, in New York in September 2013. The Special Rapporteur provided input to the contribution of the United Nations system to the High-level Dialogue, stressing the importance of paying sufficient attention to the human rights

of migrants. The Special Rapporteur welcomes the fact that migration is being considered by those two high-level multilateral forums.

A. Engagement with the Human Rights Council

10. During the period under review, the Special Rapporteur undertook his first country mission to Albania, from 5 to 13 December 2011. The report was submitted to the Human Rights Council at its twentieth session in June 2012 (see A/HRC/20/24/Add.1, annex). The Special Rapporteur wishes to thank the Government of Albania for its positive response to his report.

11. The Special Rapporteur submitted his first thematic report to the Human Rights Council at the same session (A/HRC/20/24). The subject of the report, the detention of migrants in an irregular situation, was selected given the increasing tendency of States to engage in this practice, and in the light of the wide range of human rights impacts that detention has on detainees. The Special Rapporteur thanks all Member States who participated in the interactive dialogue and hopes that his recommendations will be taken up by States when considering their policies and programmes regarding the detention of migrants, in particular the principle that freedom should be the rule and detention the exception.

B. Regional thematic study: management of the external borders of the European Union and its impact on the human rights of migrants

12. During the period under review, the Special Rapporteur decided to dedicate the first year of his mandate to a regional thematic study on the management of the external borders of the European Union, focusing on the Mediterranean region. The Special Rapporteur is acutely aware of the increasing political attention on migration within Europe. In particular, he has observed the focus on border management by the European Union, in the context of the Schengen free-movement area, and the impact on the human rights of those migrants attempting to enter the European Union.

13. The study, developed in consultation with the European Union and relevant Member States, had the objective of assessing the progress made as well as the obstacles and challenges which remain in protecting and promoting the rights of migrants, paying particular attention to the human rights of migrants in an irregular situation. The Special Rapporteur will examine the European Union directives and national policies in place with respect to visa regimes and border control and will also analyse important bilateral mobility partnerships established between European Union and non-European Union countries as they affect border management, and the implications of such partnerships for the human rights of migrants. He will also investigate management policies and practices, interception practices, including on land and at sea, detention regimes and conditions, and returns and readmissions.

14. Thus, in April and May 2012, the Special Rapporteur visited Vienna and Brussels where he held consultations with the key European Union institutions responsible for protecting and promoting the rights of migrants, including, among others, the European Union Commissioner for Home Affairs, the Directorate-

General for Justice of the European Commission, the European Parliament, the secretariat of the European Council, the European External Action Service, the Fundamental Rights Agency and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

15. Within the above framework of analysis, the Special Rapporteur will focus his country visits in 2012 on examining the complex issues of control and management of European Union borders, using real case examples from his missions at the national level. In particular, the Special Rapporteur has chosen to visit both sides of the border of two of the main points of entry for migrants into the European Union: Turkey and Greece, and Tunisia and Italy. In June 2012, he visited Tunisia and Turkey. He will visit Italy from 1 to 8 October and Greece from 26 November to 3 December 2012.

16. The findings and recommendations emerging from those visits will be presented to the Human Rights Council at its twenty-third session in the form of one thematic global mission report, with country-specific attachments. The Special Rapporteur will highlight ongoing challenges in the development and implementation of policies and will also identify best practices. He will also provide a set of recommendations to assist member States of the European Union and States visited in overcoming such challenges individually, bilaterally and regionally.

III. Thematic section: climate change and migration

A. Introduction

17. The world can expect to experience profound changes in the natural and human environments over the next 50 years or so. Given the significant impacts of those environmental transformations, the Special Rapporteur notes that the effects of climate change will likely play a significant and increasingly determinative role in international migration. In this context, the Special Rapporteur decided to dedicate the thematic section of his report to the General Assembly to the impacts of climate change on migration.

18. Hundreds of millions of people, especially in the global South, are highly vulnerable to global environmental change and will become more so in the future. In its assessment of the future of the planet, the leading intergovernmental body working on the issue, the Intergovernmental Panel on Climate Change, concluded in its Fourth Assessment Report (2007) that global warming was unequivocal and that human activity was the main driver, very likely causing most of the rise in temperatures since 1950.

19. Thus, global environmental variation as a result of climate change is now a certainty, and the impact of climate change on migration is becoming increasingly apparent. Walter Kälin, the former representative of the Secretary-General on the human rights of internally displaced persons, has identified five scenarios of climate-induced displacement, triggered respectively by (i) sudden-onset disasters; (ii) slow-onset environmental degradation; (iii) sinking small island States;

(iv) high-risk zones designated by Governments; and (v) unrest that seriously disturbs the public order, violence, or armed conflict.[1]

20. In particular, climate change is likely to exacerbate the frequency and intensity of extreme weather events (e.g., tropical storms, floods, heat waves) and the gradual processes of environmental degradation (e.g., desertification and soil and coastal erosion). Those effects of climate change and their adverse consequences for livelihoods, public health, food security and water availability will have a major impact on human mobility, as one natural response will be to migrate.

B. United Nations system and international engagement on migration and climate change

21. While the question of the impact of climate change on migration patterns and the displacement of persons has long been neglected, it has started to receive much needed attention from the international community.

22. In the context of the work of Special Procedures, the former Special Rapporteur on the human rights of migrants, Jorge Bustamante, in his final report to the Human Rights Council in 2011, noted the increasing relevance of climate change and its impact on the movement of peoples and recommended that further study be made on the impacts of environmental and climate change on human mobility (see A/HRC/17/33, paras. 47-62).

23. Other mandate holders have also developed very timely reports dedicated to this issue in relation to their respective mandates, notably the Special Rapporteur on the human rights of internally displaced persons (A/66/285) and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (A/64/255).

24. In 2009, the Office of the United Nations High Commissioner for Human Rights (OHCHR) submitted a report to the Human Rights Council in response to its resolution 7/23 on the relationship between climate change and human rights. The report also contained a detailed section focused on the impact of climate change on migration (see A/HRC/10/61, paras. 55-60).

25. Each of those reports contains important definitions, including basic concepts and terminology, especially on mitigation and adaptation,[2] upon which the Special Rapporteur will rely in the present report. Furthermore, the Special Rapporteur will use the term "climate-change-induced migrant" to refer to persons who may migrate in connection with the environmental impacts of climate change.

26. Beyond the work of OHCHR, the United Nations system as a whole is also increasingly focusing on the intersection of climate change and environmental

[1] Walter Kälin, "Conceptualizing Climate-Induced Displacement", in *Climate Change and Displacement: multidisciplinary perspectives*, pp. 81-103, Jane McAdam, ed. (Hart Publishing, Portland, Oregon, 2010).

[2] Report of the Special Rapporteur on the human rights of internally displaced persons on Climate Change and Internal Displacement (A/66/285, paras. 25-27); report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on Climate change and the right to adequate housing (A/64/255, paras. 51-64); and report of OHCHR on the relationship between climate change and human rights (A/HRC/10/61, paras. 12-15).

policy and migration. The Global Migration Group, a collective of 18 United Nations agencies, the World Bank and the International Organization for Migration (IOM), was created in 2006 in recognition that migration is a complex and multidimensional issue that requires a coherent and coordinated approach from the international community (see http://www.globalmigrationgroup.org). The United Nations Educational, Scientific and Cultural Organization (UNESCO) as the Chair of the Global Migration Group in the second half of 2011, focused its statement on the relationship between climate change and migration.

27. The Climate Change Environment and Migration Alliance (see http://www.ccema-portal.org), which includes the United Nations Environment Programme (UNEP), the Office for the Coordination of Humanitarian Affairs, IOM and other international non-governmental organizations specialized in environment, has also recently been established.

28. Individual United Nations agencies have also focused specifically on the link between migration and climate change. IOM has a thematic focus on this issue and has developed numerous publications on the topic.[3] Similarly, UNHCR has recognized the important impact that climate change will have on its work.[4] The World Bank also recently commissioned a study on human rights and climate change.[5]

29. The 2012 United Nations Conference on Sustainable Development (Rio+20), held in Brazil from 20 to 22 June 2012, also recognized the issue of migration as relevant in the context of environmental cooperation, and emphasis was put on the need for States to recognize the rights of migrants, in particular those in a vulnerable situation.[6]

30. Of course, the Special Rapporteur recognizes the contributions of numerous non-governmental organizations, as well as Governments themselves, to the development of this field. As more research continues to be carried out at both the scientific and policy levels, the understanding of the issues continues to evolve. Building on this, the Special Rapporteur will further explore the human rights aspects of migration relating to climate change.

C. Question of definition: what is climate-change-induced migration?

31. Environmentally induced migration is commonly presented as a new, or emerging, issue. Yet, changes in environmental conditions have always influenced migration patterns. It is a core feature of our human condition: since mankind has existed, people have been moving in response to changes in their environment, often seasonally. In the context of climate change, however, the rate and scale of this migration could be multiplied. Precise numbers regarding environmental migrants vary considerably, with estimates of the number of people likely to be displaced by

[3] An overview of the work of IOM on migration and climate change is available from http://www.iom.int/jahia/Jahia/pid/2068.

[4] An overview of the work of UNHCR on Migration and Climate Change is available from http://www.unhcr.org/pages/49e4a5096.html.

[5] World Bank, *Human Rights and Climate Change: A Review of the International Legal Dimensions*, Washington, D.C., 2011.

[6] See outcome document of the United Nations Conference on Sustainable Development (Rio+20) (A/66/L.56, annex, paras. 144 and 157).

climate change ranging from 50 to 250 million by the year 2050.[7] The Special Rapporteur remains aware, however, that accurate data on this issue is not readily available. Furthermore, he recognizes that statistical exercises will be controversial, not only in view of the difficulty in predicting the rate of sea level rise and its impact on persons, but also with regard to a key conceptual hurdle: the difficulty of identifying those migrants who can be said to have moved solely for reasons related to climate change. For example, it is difficult to isolate the effects of climate change that may contribute to population movements from other environmental factors, such as land degradation, which may be linked to other stresses on the environment, including the impact of an increasing global population consuming ever more natural resources.

32. In this context, the Special Rapporteur understands that although environmental transformations experienced as a result of climate change may contribute to migratory movements, environmental migration, like every kind of migration, is essentially a complex, multicausal phenomenon which may be driven by a multiplicity of push-and-pull factors. Thus, the question of identifying those who have migrated as a result of climate change might be a challenging, if not impossible, task: the impacts of climate change often contribute to a cluster of causes that lead to migration.

33. Further difficulties in defining the climate-change-induced migrant are compounded by the fact that climate change may induce a range of migration patterns. Climate change may induce temporary, circular and permanent migration movements, which may be multidirectional, or episodic. Persons affected may move internally or internationally, spontaneously or in an organized and planned manner, and may range on a wide continuum between forced and voluntary migrations. Future predictions remain problematic: while research may suggest some ways in which climate change may affect migratory patterns, it is difficult to predict future movements accurately if only because of the decisive role of individual human agency, as migration is always also an individual trajectory and never simply a mass displacement. Moreover, the success, or lack thereof, of future mitigation and adaptation strategies, including the development of new technologies which may or may not ameliorate the situation of those most affected by the effects of climate change, are impossible to know. Furthermore, it is impossible to forecast the impact of future extreme environmental events, including their regularity or force.

34. Notwithstanding, or perhaps in the light of these conceptual difficulties, the Special Rapporteur recognizes the need for more rigorous scientific, empirical, sociological, legal and other research in this field. Only with precise knowledge of the scope and nature of environmental migration will States be able to develop and agree upon common policies in this regard.

1. Identifying people vulnerable to climate-change-induced migration

35. While climate change may be felt across the globe, it is likely that its impacts will affect some individuals and groups more than others. At a global level, the Intergovernmental Panel on Climate Change reflected "sharp differences across

[7] Nicholas Stern, *Stern Review on the Economics of Climate Change*, Cambridge, United Kingdom, Cambridge University Press, 2006, p. 77, describing 250 million as a "conservative" assumption of how climate-induced displacement is to be defined.

regions".[8] Developing States facing multiple stresses are likely to be the most severely affected, in particular in Africa, Asia and Oceania: megadeltas, small island developing States, and low-lying coastal and arid areas are most exposed to environmental migration.

36. Within societies, specific groups may be more vulnerable to the effects of climate change than others.[9] Economically disadvantaged communities can be especially vulnerable, in particular those concentrated in high-risk areas, as those societies may be highly dependent on the environment for their livelihood.[10] Other determinants play a key role, including personal characteristics such as age, gender,[11] wealth or disability. Moreover, the Special Rapporteur recognizes that in general, people migrating through a lack of choice as a consequence of climate change are more likely to be moving in an irregular situation and are therefore more vulnerable to human rights violations through the course of their migration.

37. Other societal factors are also significant, including for groups that are marginalized or excluded or that experience discrimination, such as minority communities or indigenous peoples. Those communities often live in fragile environments which are more directly affected by climate change. Moreover, due to poverty, groups are often in a weaker position in terms of their ability to anticipate and respond to environmental change resulting in the paradox where the most vulnerable individuals and communities are often those least able to migrate. At the same time, owing to their often limited ability to participate in political life, those groups are often overlooked by the authorities when relief measures are being developed and delivered, or they face serious protection concerns when measures are developed and have a negative impact on them, thus compounding their vulnerability. Another concern is that of secondary impacts, where, as a result of climate change, affected persons are relocated to minority areas or indigenous lands, without adequate consultation or respect for their rights. The Special Rapporteur thus emphasizes the need to ensure that all groups are adequately considered in the context of responding to climate-change-induced migration, with particular attention paid to those who are most vulnerable, including ensuring their active political and technical participation in the development of responses.

38. The Special Rapporteur is also aware that vulnerability is not only determined by geographical, social or economic factors, but also may be the result of political circumstances. The commitment of States to developing appropriate policy responses, either in direct response to a natural disaster, or with regard to long-term

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[8] See Intergovernmental Panel on Climate Change, R. K. Pachauri and A. Reisinger, eds., *Climate Change 2007: Synthesis Report*, Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, Geneva, Intergovernmental Panel on Climate Change, 2007, p. 65.

[9] See A/64/255 and A/HRC/10/61, paras. 42-54.

[10] International Panel on Climate Change, R. K. Pachauri and A. Reisinger, eds., *Climate Change 2007, Synthesis Report*, Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, Geneva, Intergovernmental Panel on Climate Change 2007, p. 48.

[11] See A/64/255 and A/HRC/10/61, paras 45-47; see also Alice Edwards, "Displacement, Statelessness and Questions of Gender Equality and the Convention on the Elimination of All Forms of Discrimination against Women", background paper prepared for a UNHCR and Committee on the Elimination of Discrimination against Women joint seminar (New York, 16-17 July 2009).

planning to manage climate-change-induced migration may thus play a key role in the vulnerability of a particular community to the effects of climate change and their subsequent migration. The degree of a State's development also plays an important role regarding the ability of governments to cope with, mitigate and adapt to environmental change. However, even where appropriate strategies are put in place, the adequacy of highly visible adaptive responses cannot always be assumed. For example, investment in specific infrastructures may contribute to increasing numbers of people choosing to remain in vulnerable areas, where they may be at increased risk owing to unforeseeable consequences of future environmental change.

39. Overall, the Special Rapporteur recognizes that in the case of many specific migration movements, it will not always be possible to clearly delineate between the vulnerability of an individual, group or community to climate change and the social, economic and political contexts in which such movements occur. Therefore, the Special Rapporteur reminds States that determining who will be affected by climate change and compelled to migrate cannot be ascertained in isolation. Attention must be paid to the full circumstances of individuals, groups and communities affected, including the political dimension. This must include an examination, based on a human rights approach, of why and how certain persons may be more vulnerable to climate change, as well as an examination of their effective access to different coping mechanisms through mitigation and adaptation strategies.

2. Identifying places vulnerable to climate-change-induced migration

40. Environmentally induced migration may occur almost anywhere. No country is safe from natural disaster and slow-onset environmental changes. Nonetheless, some circumstances are evidently more conducive to environmentally induced migration. In any place where human settlement already faces precarious environmental circumstances, exposure to the slightest environmental change may reach a tipping point whereby people are compelled to move.

41. First, low-lying coastal areas and megadeltas are major sources of environmentally induced migration. This is particularly true in countries such as Bangladesh and Viet Nam, and regions such as the Egyptian Nile Delta and the Niger Delta in Nigeria. Those regions are vulnerable to slow-onset environmental phenomena related to sea level rise and change in precipitation patterns and are also increasingly affected by natural disasters, such as hurricanes, floods, storm surges, soil erosion and soil salinization.

42. Second, arid areas, such as the African Sahel and other dry regions in Central America, Africa and Asia, are vulnerable to increases in temperature and changes in precipitation patterns. In many places deserts are expanding, and regions that were barely habitable will become uninhabitable. Studies have shown that local populations have long coped with difficult environmental conditions through migratory strategies: seasonal migration to towns (African Sahel)[12] or pastoralism (Somalia).[13] In such circumstances, desertification triggers adaptive changes in those migratory strategies.

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[12] Oli Brown, "Eating the dry season: labour mobility as a coping strategy for climate change" (Geneva, International Institute for Sustainable Development, 2007). Available from http://www.iisd.org/pdf/2007/com_dry_season.pdf.

[13] Vikram Kolmannskob, "Climate change, disaster, displacement and migration: initial evidence from Africa", Research Paper No. 180 (Oslo, Norwegian Refugee Council, 2009).

43. Third, if current greenhouse gas emission trends continue, small-island, low-lying developing States, such as Tuvalu, the Maldives and Kiribati, may be lost to sea level rise, rendering their inhabitants stateless. Some countries, including Tuvalu, are already negotiating agreements with their neighbours to relocate their populations.[14] Other States such as the Maldives have started saving to buy land for its population in the future.[15]

44. Fourth, climate change in polar regions is occurring at a quicker pace. The sea ice cover is decreasing and the permafrost is melting, leading to accelerated erosion, significant flooding and changes in hunting or fishing capabilities. Many indigenous communities in Alaska and Canada, for instance, are located on the shoreline, and some are already in the process of resettling.[16]

45. Fifth, many other regions are now affected by sudden and extreme natural disasters, and "even societies with high adaptive capacity remain vulnerable to climate change, variability and extremes".[8] Hurricane Katrina in Louisiana and bushfires in Australia, for instance, illustrate that no society is immune.

3. Where are climate-change-induced migrants moving to?

46. Though it is hard to predict precisely the patterns of where climate-change-induced migrants will move, current research indicates that much climate related displacement is likely to take place within national borders and that those most acutely vulnerable will often not be in a position to migrate internationally. Moreover, to date, event driven displacements have tended to be short-lived, with many returning to the source location once the event has receded. However, those trends may or may not continue, as much will depend on the severity and nature of future climate related conditions. Furthermore, the Special Rapporteur is aware that there are some indications of increased movement of environmentally induced migrants across international borders.[17]

47. Be it within or beyond borders, where migration is a spontaneous and unplanned event there is a risk that a large number of environmentally induced migrants will move towards other more exposed places, such as low-lying areas or to cities that themselves face threats from environmental change.[18] Furthermore, environmentally induced migrants will travel only as far as their resources allow

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[14] Brad Crouch, "Tiny Tuvalu in 'save us' plea over rising seas", Adelaide, Australia, *Sunday Mail*, 5 October 2008.

[15] Andrew Revkin, "Maldives Considers Buying Dry Land if Sea Level Rises", *New York Times*, 10 November 2008; Ben Doher, "Climate Change Castaways Consider to Move to Australia", *The Sydney Morning Herald*, 7 January 2012. See also report of the Special Rapporteur on the human rights of internally displaced persons, Mission to Maldives (A/HRC/19/54/Add.1).

[16] Robin Bronen, "Forced migration of Alaskan indigenous communities due to climate change: creating a human rights response", in *Environment, Forced Migration and Social Vulnerability*, Tamer Afifi and Jill Jäger eds. (Springer-Verlag Berlin Heidelberg, 2010), p. 87.

[17] See Shuaizhang Feng, Alan B. Krueger and Michael Oppenheimer, "Linkages among climate change, crop yields and Mexico-United States cross-border migration", *Proceedings of the National Academy of Sciences* (2010); see also Stefan Alscher, "Environmental Factors in Mexican Migration: The Cases of Chiapas and Tlaxcala", in *Environment, Forced Migration and Social Vulnerability*, Tamer Afifi and Jill Jäger eds. (Springer-Verlag Berlin Heidelberg, 2010), p. 171.

[18] Foresight report on migration and global environmental change (Government Office for Science, London, 2011).

them to go, often towards slums in already overcrowded megacities, thus exacerbating poverty.[19]

48. The Special Rapporteur is also aware that the ability to migrate is a function of mobility and resources. Yet, populations who experience the impacts of environmental change may see a negative impact on their resources. That is to say, migration opportunities may in fact be least available to those who are most vulnerable to climate change.

49. In this context, the Special Rapporteur observes that where people have reduced options for migration, they may be more likely to become trapped in locations vulnerable to environmental hazards. For the international community, the Special Rapporteur emphasizes that this trapped population is likely to represent just as important a policy concern as those who do migrate. Planned and well-managed migration can be one important solution for this population of concern, with due respect paid, of course, to relevant human rights principles, such as safeguards in relation to avoiding forced evictions (see report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living: basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex 1)).

50. Those scenarios demonstrate that laissez-faire policies that respond to the needs of climate-change-induced migrants on an ad hoc basis are insufficient. Policies should organize environmentally induced migration in order to minimize impacts on the human rights of those affected and ensure they are not made more vulnerable by the migration process.

4. Identifying needs

51. Given their diversity, climate-change-induced migrants may have different needs. Overall, all public policies with respect to climate-change-induced migration should be guided by a general respect for the dignity and human rights of the affected individuals, groups and communities, taking into account their particular circumstances.

52. The Special Rapporteur observes that in the context of climate-change-induced international migration, early planning is essential. Without infringing on the freedoms of migrants, and in partnership with affected communities who may be most aware of their own vulnerabilities and needs, sustainable migratory strategies should be developed in advance by all States concerned through international cooperation and with the help of international organizations, civil society organizations and NGOs. This may mean developing mitigation and adaptation strategies, where appropriate. If an area will become uninhabitable prior to the necessity of resettlement, it may be advisable to encourage temporary, seasonal or permanent individual migration for some individuals to acquire new skills and new links in a possible place of destination, thus preparing for possible resettlement.

53. Finally, the rights of all migrants, including environmentally induced migrants, whatever their status, should be formally recognized, and a sustainable relationship between these individuals and the welcoming society should be defined and

[19] See, generally: World Bank, *Climate Change, Disaster Risk and the Urban Poor: Cities Building Resilience for a Changing World*, Washington, D.C., 2011; see also A/64/255.

monitored by appropriate international and domestic institutions. For temporary migrant workers, this should include rights equivalent to those of local workers. As all environmentally induced migrants should be recognized as an integral part of the society of destination, public authorities, with the help of international organizations, civil society organizations and NGOs, should implement specific policies targeting their specific needs.

D. International law and climate-change-induced migration

1. Responses in the present human rights regime

54. Although there is no one international human rights treaty designed to deal specifically with environmentally induced migrants, existing human rights law provides a range of situations that respond to their needs and rights. Indeed, human rights law already provides robust protection for migrants who are moving for multiple reasons. What is required, however, is a more concerted and concrete application of those norms to the situation of climate-change-induced migrants, and specific attention to the vulnerability of migrants in this particular context.

55. Under the International Covenant on Civil and Political Rights,[20] civil and political rights must first, as a rule, be recognized by a State to "all individuals within its territory and subject to its jurisdiction without distinction" (art. 2). The International Covenant on Economic, Social and Cultural Rights[21] further guarantees social, economic and cultural rights for all without discrimination. In this context, these Covenants ensure the applicability of fundamental rights for migrants, including the right to life,[22] among other basic rights, including the right to an adequate standard of living and health.[23] In particular, the Special Rapporteur notes that the well-established principles of non-discrimination established in both treaties[24] may require States to develop specific policies and programmes, taking into account the particular circumstances and needs of climate-change-induced migrants.

56. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[25] explicitly applies the rights elaborated in the International Bill of Rights to the specific situation of migrant workers and members of their families. Entering into force in 2003, the Convention has now been ratified by 45 States, and the Special Rapporteur urges its prompt ratification by all remaining States. Furthermore, several conventions negotiated under the auspices of the International Labour Organization contain important provisions reaffirming the human rights of migrants.[26]

57. The Special Rapporteur notes further the obligation to provide humanitarian relief to persons affected by climate change. Such assistance should support

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[20] United Nations, *Treaty Series*, vol. 2296, No. 40906.

[21] See resolution 2200A (XXI), annex.

[22] United Nations, *Treaty Series*, vol. 2296, No. 40906, art. 6.

[23] See resolution 2200A (XXI), annex, arts. 11 and 12.

[24] United Nations, *Treaty Series*, vol. 2296, No. 40906, art. 2 and resolution 2200A (XXI), annex, art. 2.

[25] United Nations, *Treaty Series*, vol. 2220, No. 39481.

[26] For example, the Convention concerning Migration for Employment (revised) (1949) (ILO C97); Migrant Workers (Supplementary Provisions) Convention, 1975 (ILO C143).

environmentally induced migrants around the time of their displacement and may take different forms, either as an emergency response to a sudden disaster, or planned in advance to accompany steady movements of migrants or to assist resettlement. Humanitarian relief should aim at ensuring the most basic rights of environmentally induced migrants, be premised on human rights principles and pay due regard to the fundamental principles of non-discrimination, participation, empowerment and accountability.

58. In the context of internal displacement, the Guiding Principles on Internal Displacement also provide a strong legal framework and restate relevant hard law, such as the Operational Guidelines on the Protection of Persons in Situations of Natural Disasters and the Framework on Durable Solutions for Internally Displaced Persons. In this regard, the Special Rapporteur refers to the report of the Special Rapporteur on the human rights of internally displaced persons (A/66/285), which analysed in detail the applicability of those principles in relation to climate-change-induced internal displacement.

2. Inadequacy of existing categories

59. Beyond the general norms of international human rights law, the Special Rapporteur observes that some of the definitional complexities around climate-change-induced migration are telling of the limitations of the current paradigm in which migration is largely framed within the context of international law. Political discourse has traditionally juxtaposed categories of the voluntary economic migrant — who is generally understood to be willingly migrating for economic reasons in search of a better life and whose migration is generally governed by the traditional rules based on territorial sovereignty — and asylum seekers and refugees — who are persons forced to migrate, fleeing persecution and deserving of international protection, including specific guarantees considered as exceptions to the "normal" regime governed by territorial sovereignty.

60. It must be acknowledged that many climate-change-induced migrants will fall in-between such categories. Many will be willingly moving, in anticipation of impending climate-change-induced economic disaster, and many will move only when becoming victims of a disastrous environmental event. For others, the compulsion to move will relate to the need to ensure food security or adequate access to basic services, such as water and sanitation, perhaps combined with a desire to reunite with family members abroad. Of those who do, many will move towards other disaster-prone areas. Many more will probably have no migration capability and will remain in disaster-prone areas: States will have to acknowledge that forced migration may encompass a range of situations and may need to recalibrate their rules to provide protection, assistance and migration opportunities for such persons.

61. One category of climate-change-induced migrants may be easier to position within the framework of refugee law — those for whom the direct impact of climate change triggers persecution and conflict, for example, as a result of tensions over resources, which exacerbate discrimination and human rights violations. Indeed, the security dimension of climate change has attracted increasing international attention

during past years,[27] and there is developing research that environmental disturbances may increase flows of refugees fleeing persecution. Such circumstances may allow for the application of international refugee law, as set out by the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol.

62. Yet, the Special Rapporteur is aware that the vast majority of expected climate-change-induced migrants will not be moving as a result of persecution. Some commentators have thus argued for the creation of a new category of protection: the "environmental refugee". The Special Rapporteur acknowledges that with regard to migration induced by climate change, the established law and practice around refugee status will not, and perhaps should not, necessarily apply to most. Although disturbances owing to climate change may increase movements of refugees, it may be impractical, not to mention undesirable, to expand the definition of international refugee law. First, many climate-change-induced migrants are most often displaced within the borders of their State. Moreover, the refugee paradigm neglects the major differences between temporary, permanent or circular climate-change-induced migration. It is also questionable whether a distinction between refugees fleeing events induced by climate change and other refugees would be useful. Furthermore, simply expanding the category of refugee law has the potential to weaken the important system put in place for the protection of refugees and asylum seekers. Thus, the present international refugee protection regime may not be the most appropriate vehicle to accommodate the vast majority of climate-change-induced migrants.

63. The Special Rapporteur does not contend that this requires an automatic recalibration of the refugee category, although he does note that the regional instruments in Africa and in Latin America have enlarged the definition of refugees to individuals fleeing "events seriously disturbing public order"[28] or other forms of "generalized violence"[29] which may protect many climate-change-induced migrants. However, it seems clear that the above-noted normative frameworks, while generally applicable to environmentally induced migration, may not fulfil the specific needs of most environmentally induced migrants; they constitute only a partial response to the challenges of environmental migration. At present, beyond the rubric of international refugee law, there thus seems to be a gap in international law regarding protection of persons on the move for environmental reasons.

64. Under the current understanding of international migration management, the inapplicability of international refugee law to the majority of climate-change-induced migrants appears to leave only the residual category of "economic migrants". Yet, this classification does not reflect the complex chain of causality between environmental change, loss of economic opportunities and forced migration.[30] For example, slow-onset environmental phenomena, such as desertification or diminishing natural resources, may create a stronger economic

[27] See report of the Secretary-General on climate change and its possible security implications (A/64/350); see also: http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.7535735/k.BC1/July_2011brMaintenance_of_International_Peace_and_Security_Impact_of_Climate_Change.htm.

[28] Convention Governing the Specific Aspects of Refugee Problems in Africa, art. 1(2).

[29] Cartagena Declaration on Refugees, 1984, para. 3.

[30] Indeed, the Special Rapporteur notes that this distinction also falls down in the case of many other categories of migrants.

tension, and thereby have an impact on a range of economic, social and cultural rights, thus spurring the need for mobility. Other climate-change-induced factors can also pose severe threats to human rights, including threats to life and livelihood, such as famine and drought, which often seem misclassified as mere incentives to migration and not worthy of proper human rights protections in themselves.

65. Thus, the phenomenon of climate-change-induced migration may require rethinking of the human rights categories afforded to migrants and the development of eventual protection mechanisms for persons on the move. The Special Rapporteur remains aware, however, that it may not necessarily be ideal to single out those migrants who move for environmental reasons. Over and above the aforementioned difficulties of proving causality, there are many other categories of vulnerable migrants who also need protection. Rather, the Special Rapporteur encourages the development of coherent policies regarding the rights of all migrants, which takes into account the myriad circumstances which lead people to migrate, including the need for human rights protections, in particular for those who are "induced" or "forced" to migrate.

3. Needs of citizens of low-lying island States

66. One category of climate-change-induced migrants that international law needs to consider urgently is those who inhabitant low-lying island States. Though it appears unlikely, despite sensationalist reports, that many countries will completely disappear owing to rising sea levels, a very real concern remains that some of those countries may become uninhabitable, likely owing to insufficiency of fresh water resources.[31]

67. To date, the international legal framework appears to be largely inadequate to address such a situation. The first article of the Montevideo Convention on the Rights and Duties of States requires that a State possess four elements: a permanent population; a defined territory; a government; and a capacity to enter into relations with other States.[32] Yet, a legal issue that remains unresolved is the status of the State after the disappearance of one of the elements established by the Montevideo Convention. Furthermore, although international law provides that a State may become extinct under certain circumstances such as absorption, merger and voluntary or involuntary dissolution,[33] the situation of a State abandoned by its population due to the effects of climate change is simply so new that no clear international legal framework appears to apply.

68. Of greater importance, perhaps, is the legal status of the population of a disappearing State. The Special Rapporteur notes that it remains unclear how international law would protect those affected persons. On the one hand, the international legal framework on statelessness is of little help, as the Convention does not automatically allow a stateless person to enter a third State.[34] On the other hand, as noted above, the need to leave one's country as a result of environmental

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[31] See generally: Jane McAdam, "Disappearing States", Statelessness and the Boundaries of International Law, in *Climate Change and Displacement: multidisciplinary perspectives*, pp. 105-130, Jane McAdam ed. (Hart Publishing, Portland, Oregon, 2010).

[32] Montevideo Convention on the Rights and Duties of States (1933), art. 1.

[33] James R. Crawford, *The Creation of States in International Law*, 2nd ed. (Oxford University Press, Oxford, 2007).

[34] Convention relating to the Status of Stateless Persons (1954).

change would not be sufficient for ensuring that such persons are protected under the international refugee law regime. The Special Rapporteur notes that, in all likelihood, political agreements would probably be reached whereby resettlement would be negotiated for the affected population. However, such agreements are usually triggered by disasters when lives have already been lost and thus come late in the day. A framework of protection for such vulnerable persons should be provided by international law, and not only depend upon the political will — or lack thereof — of benevolent States.

E. Looking ahead: political engagement on the issue of climate-change-induced migration

69. In the light of the above analysis, the Special Rapporteur emphasizes that, as a complement to sustainable adaptation strategies, policies should facilitate some environmentally induced migration. Preventing or constraining such migration is not a risk-free option: it may in fact lead to accelerated impoverishment, increased displacement and irregular migration in many settings, particularly in low-lying coastal zones, drylands and mountain regions, making future migration crises more probable. As the foresight report observed: "the cost of inaction is likely to be higher than the costs of measures discussed in this report, especially if they reduce the likelihood of problematic displacement. Giving urgent policy attention to migration in the context of environmental change now will prevent a much worse and more costly situation in the future."[18]

70. To respond appropriately to the situations of climate-change-induced migration, engagement is necessary at all levels of governance. Moreover, policy responses to the multiple impacts of climate change need to be developed simultaneously. Short-term response might be largely humanitarian, in the context of both sudden, climate-related disasters and that of slower impacts, such as food and water insecurity and access to other basic rights. However, such approaches need to be supplemented by medium- and long-term responses. Medium-term responses should focus on adaptation at the community and country levels, building resilience in populations at risk from environmental deterioration and the efficient use of technologies to better depend on the natural changing of the environment. Policy development and programming also need to be factored in. Long-term policies require international engagement in the limitation of greenhouse gas emissions in order to limit the pace of global warming.

71. In the light of these complex necessities, the section below outlines only a few of the key considerations regarding the role that Governments should play and highlights the equal importance of the engagement of not only individuall affected States, but also the international community and civil society in responding to those needs.

1. Duties of Governments

72. The complex dimensions of environmental change and migration demand coordination from a broad spectrum of governmental actors, including but not limited to: adaptation funding; development cooperation; urban planning; rural affairs; conflict management; disaster planning; migration policies; and environmental policy. Action and coordination will also be required between

different tiers of policymakers, from the local level to the national level. Importantly, these different levels of governance will need to act in coordination and cooperation if policy responses are to address the complexity of the issue effectively.

73. Given the multiplicity of locales which are affected by the issue, it is also useful to distinguish between the situation of States concerned by internal climate-change-induced migration, States of origin and States of destination of international climate-change-induced migration, and all States.

74. For countries concerned by internal climate-change-induced migration (and, within States, for local governments), States must ensure that climate-change-induced migrants are not discriminated against; their rights should be guaranteed like those of all other citizens. States should not infringe on the human rights of climate-change-induced migrants by preventing them from moving within the State or by restricting their choice of residence (International Covenant on Civil and Political Rights, art. 12 (1)). States concerned by internal climate-change-induced migration also have the obligation to take specific actions to ensure that individuals within their jurisdiction enjoy the benefit of their rights. It is a well-settled principle under human rights law that equality does not only mean that analogous situations should receive the same treatment, but also that dissimilar situations should receive, if necessary, differentiated treatments. Climate-change-induced migrants are more vulnerable because of a lack of social structure, possible linguistic disadvantage, and health fragility due to the displacement. The specific needs of climate-change-induced migrants should be recognized and dealt with through specific programmes. Furthermore, States must take specific measures to allow arriving climate-change-induced migrants to best adapt to the community of destination. This includes in particular urban planning: whenever a city is bound to a quick and massive growth of its population, infrastructures should accordingly be developed to ensure that all individuals (newcomers and previous inhabitants) maintain a dignified life (see report of the Special Rapporteur on the human rights of internally displaced persons (A/66/285)).

75. For States of origin of international climate-change-induced migration, it is important to recall that States cannot prevent their population from moving to another State (International Covenant on Civil and Political Rights, art. 12 (2)). Furthermore, in no case should a State prevent a national from returning to their country (International Covenant on Civil and Political Rights, art. 12 (4)). At the same time, there is the obligation on these States to provide necessary education and training for future migrants to be able to adapt to a new society. In particular, States of origin may engage in bilateral policies of circular migration, allowing individuals to get training abroad and thus facilitating the migratory process. Yet, States of origin should at no time force individuals to leave their country, but should strive to allow in situ adaptation as long as possible. They should protect individuals who decide not to move. The Special Rapporteur notes, however, that circular migration policies must be designed to respect human rights and be responsive also to the needs of climate-change-induced migrants, and not only to labour market imperatives, which can in fact operate to exacerbate migrants' vulnerability and increase irregular migration.

76. States of destination of international climate-change-induced migration have the obligation not to discriminate but to engage in specific policies to ensure the real

equality of climate-change-induced migrants with other individuals within their jurisdiction.

77. Regional cooperation on climate-change-induced migration will be essential. With the support and assistance of international organizations and international financial institutions, and as part of a coherent and negotiated regional sustainable adaptation strategy, bilateral and multilateral agreements should facilitate specific regional climate-change-induced migration movements, in order to relieve the pressure on the States of origin and provide for orderly movements into States of destination. Such agreements should provide for the guarantee of the dignity and human rights of migrants, as provided for in international law, and include the active participation of local civil society organizations and international NGOs.

78. Furthermore, courts at the regional and domestic levels can also play an important role in protecting the rights of climate-change-induced migrants. As irregular and vulnerable migrants are not part of the local polity, they largely have no voice in the political arena and rarely dare protest. In the face of increasingly strident anti-immigration political discourse, it is often the judiciary that can best protect migrants' rights. Access to justice becomes a key factor in imposing sanctions for human rights violations and reducing migrants' vulnerability.

2. Responsibility of the international community

79. The Special Rapporteur further observes that, beyond those States affected by climate-change-induced migration, whether States of origin, transit or destination, all States have the international responsibility to protect the human rights of foreign populations whose State is unable to do so. Respecting the basic human rights of climate-change-induced migrants should be considered as a basic tenet of international cooperation, defined by the purposes of the United Nations in Article 1 (3) of the Charter. In this regard, the existing human rights legal framework provides important protections to migrants, including through the monitoring and standard-setting functions of human rights mechanisms.

80. Beyond an overall responsibility of international cooperation, some other principles of international law may provide stronger impetus for all countries to protect migrants. In this regard, international environmental law provides some further guidance that can be drawn upon in the climate-migration context. In 1941, the *Trail Smelter* arbitral award established that, "under the principles of international law, [...] no State has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence".[35] The "no harm" principle has

[35] *Trial Smelter* case (United States of America v. Canada) United Nations, *Reports of International Arbitral Awards*, vol. III, p. 965; see also *Corfu Channel* case (United Kingdom v. Albania), *Merits, Judgement, I.C.J. Reports* 1949, p. 4, at p. 23; *Legality of the Threat or Use of Nuclear Weapons* case, Advisory Opinion (1996) P.C.I.J. (Ser. A/B) No. 226 at 241; *Gabčíkovo-Nagymaros Project* (Hungary v. Slovakia) at 41.

since become a foundation of international environmental law.[36,37,38] The strict criteria laid down by the court establish that the no harm principle can be invoked if the "case is of serious consequence" for the affected State and if "the injury is established by clear and convincing evidence". Strong and convincing arguments have further highlighted the causal chain between historical emissions of greenhouse gas, mostly in countries of the global North, global environmental change, and the consequences mostly affecting countries of the global South. Individuals and communities are also turning to domestic courts to seek the responsibility of polluters,[39] reflecting a strong social demand that polluters pay for the damages they cause. Following this line of reasoning, countries of the global North and other States with economic means could be encouraged to contribute, financially and technically, to the implementation of bilateral and multilateral agreements facilitating specific regional climate-change-induced migration movements as part of coherent and negotiated regional sustainable adaptation strategies.

81. The notion of a common, but differentiated, responsibility may also be an important framework through which the causal link between anthropogenic climate change and the resultant human displacement can be approached (see United Nations Framework Convention on Climate Change, arts. 3 (1) and 4). As a distributive principle, it may help encourage international cooperation in terms of guaranteeing the human rights of displaced individuals, at least when the State jurisdictionally competent is not able to afford a sufficient level of protection. At the same time, as a dissuasive principle, it may push States to adopt more responsible conduct in order to mitigate climate change. This principle has already led to considerable international funding for adaptation, although adaptation has almost exclusively been conceived as in situ adaptation.

82. On the other hand, soft law instruments, such as guiding principles, may define and promote rights-based norms and responsibility-based principles, as has been illustrated by the Guiding Principles on Internal Displacement. Regional initiatives may also be developed as first steps towards international action.

83. Similarly, voluntary financial or organizational support, such as the international adaptation funding carried through the United Nations Framework Convention on Climate Change, can be instrumental. While the United Nations Framework Convention on Climate Change programme has long focused on the increasing resilience of populations, it has recently extended to "[m]easures to enhance understanding, coordination and cooperation with regard to climate displacement, migration and planned relocation, where appropriate, at the national, regional and international levels".[40]

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[36] See United Nations Framework Convention on Climate Change (1992), recitals 8 and 9.

[37] Principle 21 of the Stockholm Declaration, *Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972* (United Nations publication, Sales No. E.73.II.A.14 and corrigendum, chap. I).

[38] Principle 2 of the Rio Declaration, *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex I.

[39] *Native Village of Kivalina v. ExxonMobil Corp. et al.*, 663 F.Supp.2d 863, 2009 WL 3326113 (N.D. Cal. 2009).

[40] See Cancun Agreements: outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, decision 1/CP.16 (FCCC/CP/2010/7/Add.1).

84. Of course, debate continues regarding whether international protection for climate-change-induced migrants should take the form of a new multilateral agreement. The Special Rapporteur remains aware that the adoption and implementation of a universal treaty by a sufficient number of States may face great diplomatic hurdles, to say the least. In the absence of such a framework however, the Special Rapporteur believes that the above principles should assist States in developing specific local, national and regional responses, in the context of the human rights framework, and with the support of the international community. The Special Rapporteur believes that, in the absence of a specific legal framework, and given the multiple concurrent actors that would have an interest in the migration/climate change nexus, specific and innovative regional cooperation agreements will constitute stepping stones for the international community to agree on a coordinated universal plan for action.

3. Role of civil society in conveying the voice of migrants

85. Civil society should not be left outside of global governance on climate-change-induced migration. Civil society organizations have played an important role in flagging the issue of climate-change-induced migration and will continue to play a key role at the stage of developing concrete actions and programmes.

86. Migratory strategies should, as far as possible, be decided locally by affected individuals and communities, with the support of their civil society organizations, and forced relocation or immobility should not be imposed arbitrarily. Central Governments can play a pivotal role by bringing together local actors and promoting consensus and by arbitrating between different local interests.

87. The Special Rapporteur notes that a striking feature of the contemporary debate on climate-change-induced migration is the absence of a voice from the climate-change-induced migrants themselves. In part, this comes from the lack of self-awareness: climate-change-induced migrants rarely consider themselves as such (and many of them have simply never heard about the notion). In part, this also comes from the general reluctance of migrants (especially if they are irregular or vulnerable migrants) to voice their concerns or to denounce the human rights violations that they suffer. It is highly desirable that States actively support the development and sustainability of organizations representing migrants and giving them a voice, including providing training and capacity-building at the local level. Only through such representation can the processes designed to elaborate policy options aimed at coping with climate-change-induced migration be inclusive and participatory, in that they involve affected populations as directly and as early as possible.

F. Migration as a solution: recognizing the opportunities of migration as adaptation to global environmental change

88. While, in the climate change context, migration is generally considered as a failure of adaptation, it is often forgotten that migration may in fact be an important adaptation strategy. In this context, the Special Rapporteur wishes to emphasize that migration should be considered both a challenge and a solution to climate-change-induced displacement. Indeed, migration has been a traditional coping mechanism, widely used by populations around the world since time immemorial to adapt to

changing environments. If properly managed, migration can therefore also be a solution to cope with climate change.

89. Examples abound in which migration has provided benefits to both countries of origin and countries of destination. Appropriate programmes of permanent or circular migration may enhance a community's resilience through diminishing pressure on local environmental resources and fostering development through remittances. This has traditionally been the case of agricultural workers. One has witnessed "reverse migration" movements, where the migrants of the previous generation return to the country of origin in order to create businesses, or training centres, in their field of acquired expertise. Despite potential contrarian effects, remittances may play another important role in the economy of many countries of origin: valued at more than three times the total amount of official development aid ($351 million in 2011), they can assist households to survive in the country of origin during difficult times, thus limiting migratory pressure by allowing economic opportunities to be created at home. Therefore, some degree of planned and proactive migration of individuals or groups may ultimately allow households and populations to remain in situ for longer.

IV. Conclusions and recommendations

90. **The global climate is already changing, and will continue to do so. The related impacts of these transformations, while not able to be precisely predicted, will certainly be far reaching, and have an impact on a wide range of human rights. In particular, climate change has significant implications regarding migration patterns and movements.**

91. **The Special Rapporteur recognizes that while no place will be protected from the impacts of climate change, already fragile environments are most vulnerable, including in particular, megadeltas, small island developing States, low-lying coastal zones, arid areas, polar regions, and places affected by sudden and extreme natural disasters. Particular groups living in these high-risk areas may thus be more affected than others, as will societies that are highly dependent on the environment for their subsistence needs. However, vulnerabilities may be exacerbated by political and social factors, with specific groups such as women, children, minority groups and indigenous peoples, often particularly vulnerable to the effects of climate change.**

92. **In this context, States must collectively recognize that migration is part of the solution to global environmental challenges, and planned and facilitated migration policies are legitimate coping mechanisms that may ease individuals, groups and communities out of situations of vulnerability. Moreover, States should recognize that territorial sovereignty should never be a permanent obstacle to migration when it has been determined that international migration is an appropriate coping mechanism.**

93. **The Special Rapporteur thus notes that coordinated international cooperation on climate-change-induced migration will be required in order to devise appropriate responses to the needs of affected populations. With a view to assisting States in the development of appropriate responses, the Special Rapporteur makes the following recommendations:**

(a) States should work together to reduce climate change by cooperating to reduce global warming by committing to reduce greenhouse gases, including through identifying clear targets through commitments within the United Nations Framework Convention on Climate Change;

(b) Considering the difficulty of obtaining reliable data on climate-change-induced migration, States, and especially States with economic means, should provide more support for research on climate-change-induced migration, including on the definition of such migration, and the production of reliable disaggregated statistical data, that would allow policymakers at all levels of governance to identify the populations most at risk of climate-change-induced displacement and develop strategies to alleviate their vulnerability;

(c) In their assessment and planning programmes for devising mitigation and adaptation strategies in order to cope with climate change, States must identify the priority vulnerable populations who are susceptible to migrate internally or internationally for causes at least partly related to climate change, as well as those who should migrate but are not able to do so, and identify their specific needs;

(d) States should support civil society organizations that give a voice to such vulnerable populations, including migrants or potential migrants, with a view to ensuring their meaningful participation in all the deliberations regarding their future as citizens and/or migrants;

(e) States should devise and implement local and national migration policies and strategies to facilitate internal climate-change-induced migration, where needed, including through building urban infrastructure that is sustainable, flexible and inclusive in order to accommodate internal migrants. Such policies and strategies should fully respect their domestic laws and obligations under international human rights norms and standards, including the political participation of vulnerable populations, as well as means of redress available to migrants against human rights violations;

(f) States should devise and implement regional migration policies and strategies to facilitate international climate-change-induced migration, where needed, including through the negotiation, conclusion and implementation of regional migration agreements. Such policies and strategies should be elaborated by all States concerned within the region, with the support and assistance of donor States. Such policies and strategies should also be elaborated with the support and collaboration of regional intergovernmental organizations, international organizations, international financial institutions, international NGOs and civil society organizations. Such policies and strategies should fully respect the international and regional human rights frameworks, including appropriate human rights guarantees for all migrants, the political participation of the vulnerable populations concerned in all decisions regarding their migration, as well as means of redress available to all migrants against human rights violations;

(g) Regional intergovernmental organizations, international organizations and international financial institutions should support, facilitate and, where necessary, initiate, the negotiation of such agreements, through political leadership, financial assistance and technical support.

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Item 109 of the provisional agenda*
Notification by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations

Notification by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations

Note by the Secretary-General**

1. In accordance with the provisions of Article 12, paragraph 2, of the Charter of the United Nations and with the consent of the Security Council, the Secretary-General has the honour to notify the General Assembly of matters relative to the maintenance of international peace and security that are being dealt with by the Security Council.

2. The matters relative to the maintenance of international peace and security of which the Security Council is seized are set out below. Items with which the Council has ceased to deal since the notification to the General Assembly at its sixty-sixth session (A/66/300) have been deleted. Those deletions, made pursuant to the note by the President of the Security Council dated 26 July 2010 (S/2010/507), are recorded in document S/2012/10/Add.9.

1. The Palestine question.
2. The India-Pakistan question.
3. The Hyderabad question.
4. Letter dated 20 February 1958 from the representative of the Sudan addressed to the Secretary-General.
5. Letter dated 11 July 1960 from the Minister for Foreign Affairs of Cuba addressed to the President of the Security Council.
6. The situation in the Middle East.
7. Letter dated 31 December 1960 from the Minister for External Affairs of Cuba addressed to the President of the Security Council.

* A/67/150.
** The present notification relates to the period from 1 September 2011 to 31 August 2012.

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8. The situation in Cyprus.

9. The situation in the India/Pakistan subcontinent.

10. Letter dated 3 December 1971 from the Permanent Representatives of Algeria, Iraq, the Libyan Arab Republic and the People's Democratic Republic of Yemen to the United Nations addressed to the President of the Security Council.

11. Complaint by Cuba.

12. Arrangements for the proposed Peace Conference on the Middle East.

13. The situation concerning Western Sahara.

14. The situation in Timor-Leste.

15. The Middle East problem, including the Palestinian question.

16. The situation in the occupied Arab territories.

17. The question of the exercise by the Palestinian people of its inalienable rights.

18. The situation between Iran and Iraq.

19. Letter dated 1 October 1985 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the Security Council.

20. Letter dated 4 February 1986 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council.

21. Letter dated 15 April 1986 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council;

    Letter dated 15 April 1986 from the Chargé d'affaires a.i. of the Permanent Mission of Burkina Faso to the United Nations addressed to the President of the Security Council;

    Letter dated 15 April 1986 from the Chargé d'affaires a.i. of the Permanent Mission of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council;

    Letter dated 15 April 1986 from the Permanent Representative of Oman to the United Nations addressed to the President of the Security Council.

22. Letter dated 19 April 1988 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the Security Council.

23. Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council.

24. United Nations peacekeeping operations.

25. The situation between Iraq and Kuwait.

26. The situation in Liberia.

27. The situation in Somalia.

28. The situation in Bosnia and Herzegovina.

29. The situation in Georgia.

30. The question concerning Haiti.

31. Complaint by Ukraine regarding the decree of the Supreme Soviet of the Russian Federation concerning Sevastopol.

32. The situation in Burundi.

33. The situation in Afghanistan.

34. The situation in Sierra Leone.

35. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

36. International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994.

37. The situation in the Great Lakes region.

38. The situation concerning the Democratic Republic of the Congo.

39. The situation in the Central African Republic.

40. Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999).

41. Children and armed conflict.

42. The situation in Guinea-Bissau.

43. Protection of civilians in armed conflict.

44. Protection of United Nations personnel, associated personnel and humanitarian personnel in conflict zones.

45. General issues relating to sanctions.

46. The situation in the Middle East, including the Palestinian question.

47. Women and peace and security.

48. Briefing by the President of the International Court of Justice.

49. Briefing by the United Nations High Commissioner for Refugees.

50. Briefing by the Chairperson-in-Office of the Organization for Security and Cooperation in Europe.

51. Meeting of the Security Council with the troop- and police-contributing countries pursuant to resolution 1353 (2001), annex II, sections A and B.

52. Threats to international peace and security caused by terrorist acts.

53. Briefings by Chairmen of subsidiary bodies of the Security Council.

54. The situation in Côte d'Ivoire.

55. Security Council mission.

56. The promotion and strengthening of the rule of law in the maintenance of international peace and security.

57. Letter dated 5 October 2003 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council (S/2003/939);

    Letter dated 5 October 2003 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council (S/2003/943).

58. Central African region.

59. Non-proliferation of weapons of mass destruction.

60. Reports of the Secretary-General on the Sudan.

61. Post-conflict peacebuilding.

62. The situation concerning Iraq.

63. Threats to international peace and security.

64. Non-proliferation.

65. Peace consolidation in West Africa.

66. The situation in Myanmar.

67. Non-proliferation/Democratic People's Republic of Korea.

68. Letter dated 22 November 2006 from the Secretary-General addressed to the President of the Security Council (S/2006/920).

69. Maintenance of international peace and security: role of the Security Council in supporting security sector reform.

70. Maintenance of international peace and security.

71. The situation in Chad, the Central African Republic and the subregion.

72. Peace and security in Africa.

73. Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security.

74. Letter dated 22 September 2009 from the Permanent Representative of Brazil to the United Nations addressed to the President of the Security Council (S/2009/487).

75. Letter dated 4 June 2010 from the Permanent Representative of the Republic of Korea to the United Nations addressed to the President of the Security Council (S/2010/281) and other relevant letters.

76. Letter dated 18 December 2010 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council (S/2010/646).

77. Letter dated 6 February 2011 from the Permanent Representative of Cambodia to the United Nations addressed to the President of the Security Council (S/2011/58).

78. The situation in Libya.